

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PETER CROOKER
131 Ten Rod Road
North Kingstown, RI 02852

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION, a/k/a AMTRAK,
30th & Market Streets
30th Street Station
Philadelphia, PA,

Defendant.

FILED
CLERK'S OFFICE
2005 FEB 11 A 11:16
U.S. DISTRICT COURT
DISTRICT OF MASS.

MAGISTRATE JUDGE New Mag

JURY TRIAL DEMANDED

RECEIPT # 62143
AMOUNT \$ 50
SUMMONS ISSUED Yes
LOCAL RULE 4.1 1
WAIVER FORM 1
MCF ISSUED 1
BY DPTY. CLK F-C 17
DATE 2/15/05

COMPLAINT

COMES NOW, Plaintiff Peter Crooker, by and through the undersigned counsel, MyersLafferty Law Offices, P.C., and Law Offices of Mario Bozza, Esq., and claims of the defendant, National Railroad Passenger Corporation, an amount in excess of the statutory arbitration limits, and avers the following:

1. Plaintiff Peter Crooker is an adult individual residing at 131 Ten Rod Road, North Kingstown, RI 02852.

2. Defendant National Railroad Passenger Corporation ("Amtrak"), is and was at all times material hereto a corporation duly organized and existing under and by virtue of law and was engaged in owning and operating a line and system of railroads and railroad properties as a common carrier of goods and passengers for hire in interstate commerce and transportation in, through and between various and several states of the United States and

doing business in the City of Boston, MA, with a principal place of business in Philadelphia, Pennsylvania.

3. At all times material hereto, Mr. Crooker was in the employ of the defendant Amtrak as a locomotive engineer in furtherance of the carrier's business of interstate commerce and transportation by railroad.

COUNT I

**Federal Employers' Liability Act and Federal Boiler Inspection Act
(Peter Crooker v. Amtrak)**

4. Plaintiff hereby restates and repeats as though fully set forth herein the averments contained in Paragraphs 1-3 hereinabove.

5. This action is brought pursuant to the Federal Employers' Liability Act, 45 U.S.C.A. §§ 51, *et seq.* (the "FELA") and the Locomotive Boiler Inspection Act, 45 U.S.C.A. §§ 23, *et seq.*, re-codified at 49 U.S.C.A. §§ 20702, *et seq.* (the "BIA").

6. Under the FELA, Amtrak owes to its employees the obligation to exercise reasonable care to provide a safe place to work, and this duty includes the duty to provide safe equipment.

7. Under the BIA, Amtrak owes to its employees the duty to use only such locomotives as are in proper condition and safe to operate without unnecessary danger of personal injury. Amtrak is strictly liable for injuries to its employees arising from a breach of the railroad's duties under the BIA.

8. On or about January 29, 2003, at or about 9:00 p.m., while in the course and scope of his employment, Mr. Crooker was exiting locomotive engine 837 at South Station, Boston, Massachusetts.

9. As a result of Amtrak's negligence, and otherwise, the locomotive engine was unsafe and posed an unnecessary danger of personal injury in that:

- (a) The locomotive door failed to open all the way;
- (b) There was no padding on the top of the doorway; and
- (c) There were no warning markings on the top of the doorway.

10. While exiting the locomotive doorway, Mr. Crooker was caused to strike his head on the doorway, causing him to suffer neck and back injuries including C7-T1 disc herniation, C3-4 disc bulge, and C6-7 radiculopathy, manifesting in neck pain, spasm and decreased range of motion, together with right upper extremity parasthesias.

11. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker was required to undergo over forty (40) physical therapy sessions between April 7, 2003 and September 8, 2003 at Physical Therapy Services of Rhode Island.

12. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker has been required to take numerous medications, including Medrol Dosepak, Prilosec, Flexeril, Tylenol, and Motrin.

13. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker was required to treat at the Greenwich Medical Center in East Greenwich, Rhode Island.

14. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker was required to treat with Randall L.

Updegrove, M.D., at University Orthopedics, Inc. in East Greenwich, Rhode Island, on March 3, 8 & 24; April 14, 17, 28, May 29; June 16; July 7 & 28, September 2; October 8; December 11, 2003; January 22; February 23; March 8; April 12; May 21, , 2004, October 13, 2004, November 19, 2004 and January 6, 2005.

15. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker has had to undergo three epidural injections on August 8, August 22 and September 5, 2003, at South County Hospital in Wakefield, Rhode Island.

16. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker has had to undergo the use of a Hometrac Supine Cervical Traction home device, prescribed by Dr. Updegrove.

17. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker has in the past and will incur in the future substantial medical expenses.

18. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker has endured and will continue to endure serious physical and emotional pain, stress, suffering, immobility and inconvenience.

19. As a further result of the Amtrak's violation of its duties it owed to the plaintiff under the FELA and BIA, Mr. Crooker has lost wages and benefits from the date

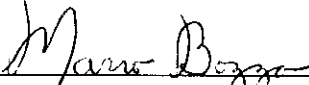
of the injury through the present, will continue to loose wages in the future and in the past, and may have sustained a diminished earning capacity.

WHEREFORE, plaintiff Peter Crooker, demands judgment in his favor and against defendant National Railroad Passenger Corporation in an amount in excess of \$75,000.00 together with costs, interest and any further and additional relief that this Honorable Court deems appropriate.

A jury trial is demanded.

Dated: 2-14-05

LAW OFFICES OF MARIO BOZZA



Mario Bozza, Esquire
63 Commercial Wharf
Boston, MA 02110
(617) 367-3100

Of Counsel:

MYERS LAFFERTY LAW OFFICES, P.C.
William L. Myers, Jr. Esquire
Suite 1310
1515 Market Street
Philadelphia, PA 19102

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Peter Crooker v. National Railroad Passenger Corporation **FILED IN CLERKS OFFICE**
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. **05 10301 RCL** **U.S. DISTRICT COURT DISTRICT OF MASS.** ***Also complete AO 420 for patent, trademark or copyright cases**
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
N/A
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
YES ☐ NO ☒
If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
YES ☒ NO ☐
A. If yes, in which division do all of the non-governmental parties reside?
Eastern Division ☒ Central Division ☐ Western Division ☐
B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Mario Buzza

ADDRESS 63 Commercial Wharf Boston MA 02110

TELEPHONE NO. 617-367-3100

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Peter Crooker (b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES) William L. Myers, Jr., Esq. (c) Myers, Lafferty Law Offices, PC Mario Bozza, Esq. 1515 Market Street, Suite 1310 63 Commercial Wharf Philadelphia PA 19102 Boston, MA 02110 215-988-1229 617-367-3100	DEFENDANTS National Railroad Passenger Corporation, a/k/a Amtrak County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 33%;">PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business In This State</td> <td style="width: 33%;">PTF DEF <input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF DEF <input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
Citizen of This State	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF DEF <input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4										
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6										

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input checked="" type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>45 USC § 23 et seq. & 45 USC § 51 et seq.</u> Brief description of cause: <u>Federal Employers' Liability Act & Locomotive Boiler Inspection Act</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE	DOCKET NUMBER
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DATE	SIGNATURE OF ATTORNEY OF RECORD
2-17-05	<i>Mario Bozza</i>

FOR OFFICE USE ONLY	RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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